

## **I. INTRODUCTION**

### **I.A. Background: Section 120 of CERCLA**

Congress passed the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) (Public Law 96-510), commonly known as Superfund, in 1980. The primary goal of the Act is to encourage the identification and remediation of sites contaminated with hazardous substances.

The Superfund Amendments and Reauthorization Act (SARA) (Public Law 99-499), which amended CERCLA in 1986, added certain specific provisions applicable to the cleanup of contaminated sites at Federal facilities. These provisions, located in Section 120 of CERCLA, are briefly described below.

Under Section 120(a)(1), CERCLA specifies that Federal departments, agencies, and instrumentalities must comply with CERCLA in the same manner and to the same extent as non-governmental entities. Except for requirements applicable to bonding, insurance, or financial responsibility, all guidelines, rules, regulations and criteria applicable to preliminary assessments (PAs), National Contingency Plan evaluations, inclusion on the National Priorities List (NPL), and the conduct of remedial action are applicable to contaminated sites at Federal facilities (Sections 120(a)(2), (3), and (4)).

Prior to the passage of SARA, Federal agencies were required to identify sites where hazardous waste was treated, stored, or disposed of at any time. SARA added Section 120(b), which requires Federal agencies to also identify contamination affecting contiguous or adjacent property and any monitoring data associated with this contamination.

Section 120(c) of CERCLA requires the U.S. Environmental Protection Agency (EPA) to compile information about contaminated sites at Federal facilities and to enter the information into the Federal Agency Hazardous Waste Compliance Docket (the docket). The docket must also include information about Federal facilities where hazardous wastes are generated and managed under Sections 3005 and 3010 of the Resource Conservation and Recovery Act (RCRA), even if these facilities are not contaminated.

To compile the docket, each Federal Agency, including the U.S. Department of Energy (DOE), notifies the EPA of hazardous waste activity under:

- CERCLA Section 103 (notification of a release or potential release);
- RCRA Section 3005 (permitting authority);
- RCRA Section 3010 (notification of hazardous waste activity for generators, transporters, and treatment, storage, and disposal facilities); and
- RCRA Section 3016 (biennial inventory of hazardous waste treatment, storage, and disposal facilities).

Certain Federal facilities that conduct hazardous waste activities under these s of CERCLA and RCRA are, however, exempt from docket listing. These facilities include small quantity generators of hazardous waste (generators of less than 1,000 kg/month of hazardous waste) and facilities that notify the EPA of hazardous waste activity under Section 3010 of RCRA only because they are transporters of hazardous waste.

Information submitted to the EPA under the above requirements is entered into several EPA databases. The EPA extracts the information from the databases to compile a proposed update to the docket that is provided to Federal agencies, including DOE. The DOE reviews the proposed docket update and provides formal

comments to EPA headquarters.

A facility is listed on the docket with a code that relates to the facility's NPL status. The NPL is EPA's list of the most serious or abandoned hazardous waste sites identified for long-term remedial action under CERCLA. Sites are placed on the NPL if they receive a threshold score from EPA's Hazard Ranking System. Docket status codes and their meanings are as follows:

U	Undetermined
N	No Further Remedial Action Planned
P	Currently Proposed for the National Priorities List
F	Currently Final on the NPL
R	Removed from the Proposed NPL and No Longer Considered for the Final NPL
D	Deleted from the Final NPL

The EPA assigns the N code, which denotes No Further Remedial Action Planned, to facilities that are not likely to be placed on the NPL and where no further involvement by the EPA in site assessment or cleanup is anticipated.

DOE sites/facilities subject to CERCLA Section 120 are listed by state in Table I-1. The table shows the status of each facility as listed on the docket, the type of contamination present, and the current status of remediation at each facility.

Section 120(d) of CERCLA requires Federal agencies to conduct a PA of facilities listed on the docket within 18 months after docket listing. If the PA indicates a need for further investigation, the responsible agency must conduct a Site Investigation (SI). Based on information developed in the PA or Preliminary Assessment/Site Investigation (PA/SI), the EPA must determine if: 1) no further remedial action is necessary at this time; or 2) further evaluation and possible inclusion on the NPL are warranted.

Section 120(e) of CERCLA requires Federal agencies that own or operate facilities on the NPL to begin a remedial investigation and feasibility study (RI/FS) for these facilities not later than six months after being placed on the NPL. The EPA must review the results of each Federal facility RI/FS. Within 180 days after the completion of EPA's review, Federal agencies must enter into interagency agreements (IAGs) with the EPA for expeditious completion of remedial action at the facility. The contents of IAGs must include:

- A review of alternative remedial actions and selection of a remedial action;
- A schedule for the completion of the remedial action; and
- Arrangements for long-term operation and maintenance of the facility.

Remedial action must begin not later than 15 months after the completion of an RI/FS and must be completed as expeditiously as practicable. To ensure that adequate funds are appropriated to perform cleanup, Federal agencies must include a statement of the hazards posed to human health, welfare, and the environment by each facility on the NPL. RI/FS work was initiated within this statutory time frame at all DOE facilities on the NPL. Also, specific consequences of failure to begin and complete remedial action must be identified and included in annual budget submissions to Congress.

Table I-1 (3-19)

## **I.B. Legal Context for DOE's Remediation Activities**

The DOE's remediation activities are governed by CERCLA, RCRA, the National Environmental Policy Act (NEPA), and other applicable laws. CERCLA addresses the uncontrolled releases of hazardous substances to the environment and the cleanup of inactive waste sites. RCRA addresses the management of hazardous waste and requires that permits be obtained for DOE facilities that treat, store, or dispose of hazardous or mixed waste. RCRA also requires corrective action to address releases of hazardous waste constituents from operating facilities. NEPA requires that Federal agencies consider the environmental effects of major Federal actions in the decision making process. It is the Department's policy to rely on the CERCLA process for review of actions to be taken under CERCLA and to incorporate, to the extent practicable, NEPA values (such as analysis of cumulative, offsite, ecological, and socioeconomic impacts) into CERCLA documentation. The Department may, however, after consulting with its stakeholders and as a matter of policy, integrate the CERCLA and NEPA processes for specific proposed actions. It is also part of the Department's policy to take steps to ensure opportunities for early public involvement in all CERCLA, RCRA, and NEPA processes.

## **I.C. CERCLA Section 120(e)(5): Annual Report to Congress**

Under Section 120(e)(5) of CERCLA, each department, agency, or instrumentality of the Federal government responsible for compliance with Section 120 must submit an annual report to Congress concerning its progress in implementing the requirements of Section 120. The report must include information on at least the following items:

- Progress in reaching IAGs under CERCLA Section 120;
- Specific cost estimates and budgetary proposals involved in each IAG;
- A brief summary of the public comments regarding each proposed IAG;
- A description of the instances in which no IAG was reached;
- Progress in conducting Remedial Investigation/Feasibility Studies (RI/FSs);
- Progress in conducting remedial actions;
- Progress in conducting remedial actions at facilities which are not on the NPL;
- An explanation of any failure to conclude an IAG within 180 days after EPA review; and
- A detailed description on a state-by-state basis of the status of each facility subject to CERCLA Section 120, including a description of the hazards presented by each facility, plans and schedules for initiating and completing response actions, enforcement status (where appropriate), and an explanation of any postponements or failure to complete response actions.

This report is being submitted to Congress in accordance with Section 120(e)(5) of CERCLA. It is DOE's Twelfth Annual Report to Congress under Section 120(e)(5) and provides information on DOE's progress in implementing CERCLA Section 120 in fiscal year 1998 (FY 98), i.e., from October 1, 1997, to September 30, 1998.

#### **I.D.    Contents of the Balance of This Report**

This report presents information on contaminated sites at DOE facilities that were placed on the NPL as of September 30, 1998, and on facilities on the docket as of November 23, 1998 (eleventh annual update). These versions of the NPL and docket are the most current.

There are currently 18 DOE sites on the NPL. These sites are presented by state in Table I-2. Table I-2 also includes information relating to when each site was placed on the NPL and the status of the IAG for the site.

The geographic location of NPL sites is shown on Figure I-1. The Hanford Site is presented as one site on the figure; however, three sites (Areas 100, 200, and 300) are listed separately on the NPL. Information on DOE sites and facilities placed on the NPL or docket after FY 98 ended will be included in subsequent CERCLA reports to Congress. In this Chapter of the report and in subsequent Chapters, the words “site” and “facility” are used interchangeably.

Table I-2 (22-23)

Table I-2 (22-23)

Figure I-1 DOE Facilities Map



Figure I-1 DOE Facilities Map key

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